

REMARKS

The final office action of November 8, 2004 has been reviewed and the examiner's comments carefully considered.

The examiner has maintained the rejection of the claims in light of U.S. Patent Number 5,367,958 to Weiss taken in view of Chapter 19 of the Making Shaping and Treating of Steel.

The prior art of record establishes that, prior to the applicant's disclosure, there was no "well known method of cold forming" rail car center sills. The Weis patent itself notes that the center sill 16 is a box beam shape that is fabricated from steel or other suitable material (see column 2 lines 7-11). The examiner asserts that since it is silent as to how the center sill is made it would be obvious to make it in any known metal working fashion. This is not accurate or appropriate. One of ordinary skill in the art reading the Weis patent would fabricate the center sill in fabrication methods that are known in the art for creating railcar center sills. As established in the background of the invention of the present application, the other prior art of records, AND MOST NOTABLY in the secondary reference, the Making, Shaping and Treating of Steel, the known methods of fabricating railcar center sills is fabrication of two (or more) hot rolled sections.

The examiner's suggested modification must disregard the explicit teaching of the secondary reference. One of ordinary skill in the art in viewing the two cited references would make the railcar center sills in the exact manner described in the references. Namely a fabrication of steel as stated in the Weis patent which is a connection of two hot rolled sections as stated in the Making Shaping and Treating of Steel manual. The examiner cannot ignore the express teachings of the combined references.

The examiner's position that the Weis patent essentially discloses everything that is not explicitly excluded is erroneous. The Weis patent discloses a center sill 16 "having a box beam shape" that is "fabricated from steel or other suitably strong load bearing material" as would be understood by those of ordinary skill in the art.

The examiner's rejection seems to rest on the assumption that the alleged novelty of the center sill of the present claimed invention rests in the geometric shape of the center sill itself. This is not the case. The center sill geometric shape of the present invention is similar to the shape of the prior art center sills, as in the Weiss patent, so that

the resulting center sills and associated railcars can be constructed in a similar fashion. The examiner has found the same overall center sill shape in the prior art and noted that essentially the only thing missing is the cold forming process and the associated physical structure. For the broadest claims this is exactly the case.

The evidence cited by the examiner has proved the patentability of the present invention rather than the obviousness thereof. There is simply no teaching or suggestion in the prior art to construct cold formed railcar center sills.

Reconsideration is respectfully requested.

Respectfully Submitted;

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